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**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)
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Filing Date: January 11, 2023) Case No.: PSH-23-0043
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Issued:

Administrative Judge Decision

Kristin L. Martin, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, entitled, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”¹ For the reasons set forth below, I conclude that the Individual’s security clearance should be granted.

I. BACKGROUND

The Individual is employed by a DOE Contractor in a position which requires that he hold a security clearance. Derogatory information about the Individual was uncovered during the investigation into his background. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e) and (g), the Individual presented the testimony of four witnesses—two colleagues, his Alcohol Anonymous (AA) sponsor, and one of his treatment providers—and testified on his own behalf. The LSO presented the testimony of the DOE-consultant psychologist who had evaluated the Individual. *See*

¹ Under the regulations, “[a]ccess authorization’ means an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material.” 10 C.F.R. § 710.5(a). Such authorization will also be referred to in this Decision as a security clearance.

Transcript of Hearing (hereinafter cited as “Tr.”). The LSO submitted 14 exhibits, marked as Exhibits 1 through 14 (hereinafter cited as “Ex.”). The Individual submitted nine exhibits, marked as Exhibits A through I.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. That information pertains to the Bond Amendment, 50 U.S.C. § 3343(b), as well as Guidelines G, H, and I of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. 10 C.F.R. § 710.7.

Guideline G states that “excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Conditions that could raise a security concern include:

- (a) Alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder;
- (b) Alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, drinking on the job, or jeopardizing the welfare and safety of others, regardless of whether the individual is diagnosed with alcohol use disorder;
- (c) Habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;
- (d) Diagnosis by a duly qualified medical or mental health professional (*e.g.*, physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;
- (e) The failure to follow treatment advice once diagnosed;
- (f) Alcohol consumption, which is not in accordance with treatment recommendations, after a diagnosis of alcohol use disorder; and
- (g) Failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

Id. at ¶ 22.

Guideline H states that:

non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed [in this paragraph].

Id. at ¶ 24. Conditions that could raise a security concern include:

- (a) Any substance misuse (see above definition);
- (b) Testing positive for an illegal drug;
- (c) Illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;
- (d) Diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder;
- (e) Failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional;
- (f) Any illegal drug use while granted access to classified information or holding a sensitive position; and
- (g) Expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

Id. at ¶ 25.

Guideline I states that "[c]ertain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline." *Id.* at ¶ 27. Conditions that could raise a security concern include:

- (a) Behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (b) An opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
- (c) Voluntary or involuntary inpatient hospitalization;
- (d) Failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions; and
- (e) Pathological gambling, the associated behaviors of which may include unsuccessful attempts to stop gambling; gambling for increasingly higher stakes, usually in an attempt to cover losses; concealing gambling losses; borrowing or stealing money to fund gambling or pay gambling debts; and family conflict resulting from gambling.

Id. at ¶ 28.

The Bond Amendment prohibits heads of agencies from granting or renewing national security eligibility for an individual who is an unlawful user of a controlled substance or is an addict. 50 U.S.C. § 3343(b); *see also* DOE Order 472.2A, Personnel Security, Appendix C: Adjudicative Considerations Related to Statutory Requirements and Departmental Requirements (June 10, 2022). An addict is defined as an “individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare; or is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.” DOE Order 472.2A, Personnel Security, Appendix C at C-1. Controlled substance is defined as any substance listed as a controlled substance by 21 U.S.C. § 802. DOE Order 472.2A Attachment 8 at 8-2.

The LSO alleges that:

1. In August 2019, the Individual was arrested and charged with Driving While Under the Influence (DWI);
2. In November 1978, the Individual was charged with Drunk in Public;
3. In September 2022, a DOE-consultant psychologist (the Psychologist) diagnosed the Individual with Alcohol Use Disorder, Mild, and concluded that he has a mental condition that can continue to produce instability and inadequately considered decisions; and

4. In February 2022, the Individual used 1.5 grams of cocaine.

Ex. 1 at 1–2. The LSO further alleges that the Individual is an addict or an unlawful user of a controlled substance. *Id.* at 1. However, the Psychologist testified at the hearing outset, before hearing any testimony, that he had incorrectly stated that the Individual had a mental condition that impaired his judgment, reliability, or trustworthiness and that his answer to the question asking if the Individual had such a condition should have been “no” based on the Individual’s psychological examination. Tr. at 19–20. I find that the LSO’s security concerns under Guidelines G, H, and the Bond Amendment are justified. With regard to Guideline I, because the only allegation supporting the invocation of Guideline I was the Psychologist’s conclusion regarding the Individual’s mental condition, which the Psychologist corrected at the hearing, I find that the LSO’s security concerns under Guideline I, while justified at the time of the Notification Letter, are not supported by the current evidence and, therefore, are dismissed.

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The entire process is a conscientious scrutiny of a number of variables known as the “whole person concept.” Adjudicative Guidelines ¶ 2(a). The protection of the national security is the paramount consideration. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. FINDINGS OF FACT

The Individual was evaluated by the Psychologist prior to the LSO issuing the Notification Letter. After the evaluation, the Psychologist prepared a report, which the Individual received in mid-December 2022, concluding that the Individual met the diagnostic criteria for Alcohol Use Disorder, Mild, and listing recommendations to demonstrate rehabilitation. *Id.* at 7–8; Tr. at 86. The Psychologist recommended that, in order to demonstrate rehabilitation, the Individual should undergo nine months of blood testing to confirm his abstinence, remain abstinent for one year, attend an Intensive Outpatient Program (IOP), see a substance abuse counselor, and meet with his doctor about possible medication for anxiety. Ex. 11 at 7–8.

Witness 1 and the Individual had worked together off and on for almost 20 years, but did not work together at the time of the hearing. Tr. at 22. They had not socialized outside of work during their time working together but had stayed in touch throughout the years. *Id.* In recent months, Witness 1 had noticed the Individual displaying more positivity than he had previously and attributed that to the Individual's choice to abstain from alcohol. *Id.* at 23. He believed that the Individual was no longer consuming alcohol, though he had not suspected in the past that the Individual had any alcohol issues. *Id.* at 24. He had attended AA meetings that the Individual was at and had noticed a change in the Individual as he worked through the program. *Id.* at 26–28. Witness 1 did not regularly attend the meetings but had first seen the Individual at AA about 90 days prior to the hearing and believed the Individual had started his sobriety around that time. *Id.* at 27. He also believed that the Individual was intentional about his AA attendance. *Id.* at 28.

Witness 2 met the Individual at an AA meeting in December 2022. Tr. at 31. The Individual asked him to be his sponsor at that time. *Id.* Witness 2 had been a sponsor for several other people who worked at the DOE facility but had found it difficult because, in his experience, science-oriented people never stopped asking “why me?” *Id.* at 32. However, Witness 2 had not heard that from the Individual. *Id.* Instead, the Individual had dived into the AA program and thoughtfully evaluated his attitudes and behaviors. *Id.* at 32–35. Witness 2 had more confidence in the Individual's recovery than in anyone else he had sponsored because the Individual was “doing the work, and the work is hard.” *Id.* at 34–35. The Individual had told Witness 2 that he did not want to rely on, depend on, or even think about alcohol in the future. *Id.* at 36. Witness 2 testified that AA attendees typically do not talk about permanent sobriety, instead focusing on one day at a time, but he believed the Individual's commitment to his recovery was “aggressive.” *Id.* at 36–37. The Individual was on the fourth step of the AA program, which is preparation of a moral inventory identifying the harms done to oneself and others because of substance use. *Id.* at 32–33. Witness 2 had received spreadsheets from the Individual, which was much more work than he had seen others put into a fourth-step inventory. *Id.* at 33. Witness 2 testified that the Individual had been abstinent from alcohol since June 2022. *Id.* at 40.

Witness 3 was the Individual's supervisor and had known him well since about September 2022, though he had known him in passing for several years before that. Tr. at 45. They did not spend time together outside work. *Id.* at 46. The Individual had been candid with Witness 3 about his alcohol use. *Id.* at 46–47. Witness 3 trusted the Individual and praised the Individual for his efficient, quality work product. *Id.* at 48–49.

Witness 4, the Individual's counselor, provided group therapy to the Individual through an Intensive Outpatient Program (IOP). Tr. at 57. The Individual had graduated from the IOP, a status separate from completion which meant that he had met certain benchmarks in the program. *Id.* at 55–56. He had completed 36 of 48 sessions when his insurance stopped covering the IOP, so he transitioned to the aftercare program to complete his remaining 12 sessions, even though the IOP considered him to have graduated early. *Id.* at 56. The Individual was an active participant in the IOP sessions and demonstrated introspection, consistent engagement, and willingness to confront difficult issues. *Id.* at 57, 61, 64. He had told his counselor that he intended to abstain indefinitely. *Id.* at 58. The Individual had explored his internal and external triggers, had learned to identify and disrupt unhealthy cognitive patterns, and had formed a relapse prevention plan. *Id.* at 62–64. Regarding the Individual's drug use, she believed that he had only used cocaine once and stated that, based on what she had heard from the Individual, she would be surprised if he used illicit substances in the future. *Id.* at 70–71.

The Individual's DWI occurred in August 2019 when he was celebrating having finished his master's degree program. Tr. at 79. He passed through a sobriety checkpoint after having "a couple of beers" with his son at dinner and bourbon with a cigar after dinner. *Id.* at 79–80. The Individual pleaded guilty and completed a first offender program, which involved one year of sobriety and having an interlock device on his vehicle. *Id.* at 80. The Individual also took part in an Employee Assistance Program (EAP) substance abuse program at the DOE facility. *Id.* He stopped attending the EAP program when he stopped working at the DOE facility in November 2021. *Id.* at 81.

The Individual did not hold a clearance while not working at the DOE facility. Tr. at 77. In February 2022, he was working in a high stress environment and a colleague asked him to come have some drinks with him. *Id.* at 77–78. While they were drinking, the colleague offered him cocaine, which he accepted. *Id.* at 78. The Individual had used cocaine when he was in high school but had only used it the one time, in February 2022, in the decades since then. *Id.* at 78. The Individual inhaled one line of powder cocaine and felt fidgety and uncomfortable. *Id.* at 79. He did not enjoy the experience. *Id.* He did not intend to use cocaine again. *Id.* When the Individual was hired by his current employer, the DOE Contractor, he was required to re-apply for his security clearance and accurately reported his cocaine use on his Questionnaire for National Security Positions (QNSP). *Id.* at 81.

The Individual began abstaining from alcohol on June 17, 2022, but did not feel like he was an alcoholic before meeting with the Psychologist in September 2022. Tr. at 82, 99. He had struggled with alcohol abuse in the past but had abstained from alcohol for 15 years after an ultimatum from his then-wife. *Id.* at 82–83. Around 10 years ago, when his son reached high school, he wanted to demonstrate moderation and began consuming alcohol again. *Id.* at 83. However, he was unable to drink moderately, and his alcohol consumption became more problematic than it was before he had started abstaining. *Id.*

The Individual first realized he had a serious problem with alcohol when he met with the Psychologist and, as of the date of hearing, he considered himself to be an alcoholic. Tr. at 81–84. He began attending AA and the IOP after receiving the Psychologist’s report, starting with an AA meeting the day after receipt. *Id.* at 85–86; Ex. A. He submitted AA attendance sheets showing daily attendance since that day. Ex. A He also increased his physical exercise to help stay sober. Tr. at 94. The AA and IOP had been particularly helpful for the Individual because he had learned about what thoughts and triggers led him to consume alcohol and how to cope with them. *Id.* at 90–92, 95–97. He started attending a morning AA meeting before work and decided to do “the 90 for 90,” which involves going to 90 meetings in 90 days. *Id.* at 86. After completing the 90 for 90, the Individual continued to attend the meeting daily and had missed only two days since December 2022. *Id.* at 87. The Individual intended to continue attending five meetings per week in the future. *Id.* at 90. He had completed his fourth-step inventory after examining his past and considering his resentments, his fears, and the harm he had done to others. *Id.* at 88–89. He intended to continue working the 12-Steps of the AA program and believed he would go through the 12-Steps more than once in his life as he grew and changed. *Id.* at 89. He had discussed his progress in AA and the IOP with his son and believed that both programs were helpful for mental health beyond just substance abuse. *Id.* at 90–91.

The Individual intended to remain abstinent indefinitely and believed he had the tools to do so. Tr. at 92–93. In addition to abstaining, the Individual had studied his underlying issues at the root of his alcohol use—particularly his relationships with his father and stepmother—and had worked to heal those issues. He intended to continue attending AA and understood that having even one drink could lead to serious consequences for him. *Id.* at 85.

The Individual had formed a relapse prevention plan. Tr. at 96. When he experienced a trigger, he would contact his primary support network: his sponsor, ex-wife, and son. *Id.* at 96–97. He would also deploy tools he had learned, such as slowing down his thought process, as well as disrupting negative thoughts and replacing them with positive ones. *Id.* at 97.

The Individual underwent monthly phosphatidylethanol (PEth) testing, which can show whether the subject has used alcohol within the preceding four weeks, starting in December 2022 after he received the Psychologist’s report. Ex. B. He submitted results of five tests, all of which were negative for the marker that would indicate alcohol use. *Id.* These results provide evidence of the Individual’s abstinence from alcohol since at least late November 2022.

The Psychologist testified that, as of the date of the hearing, the Individual was reformed and rehabilitated from his Alcohol Use Disorder and had a good prognosis for avoiding relapse. Tr. at 122, 125. The Psychologist found the Individual’s work with AA commendable and had noticed a significant change in the Individual’s demeanor since the time of the psychological evaluation. *Id.* at 122–23. For example, the Psychologist noted, the Individual was able to discuss difficult family topics without experiencing physical distress, which he had not been able to do at his evaluation. *Id.* The Psychologist explicitly stated that he believed the Individual had made real change in his life. *Id.* at 124.

V. ANALYSIS

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government places a high degree of trust and confidence in individuals to whom it grants access authorization. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

The issue before me is whether the Individual, at the time of the hearing, presents an unacceptable risk to national security and the common defense. I must consider all the evidence, both favorable and unfavorable, in a commonsense manner. “Any doubt concerning personnel being considered for access for national security eligibility will be resolved in favor of the national security.” Adjudicative Guidelines at ¶ 2(b). In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Because of the strong presumption against granting or restoring security clearances, I must deny access authorization if I am not convinced that the LSO’s security concerns have been mitigated such that granting the Individual’s clearance is not an unacceptable risk to national security.

Having applied the Adjudicative Guidelines’ mitigating factors to the evidence presented and having considered such evidence in light of the whole person concept, I find that the Individual has mitigated the concerns under Guidelines G and H and that the Bond Amendment is not applicable in this case.

A. Bond Amendment

After considering all the relevant information, including the testimony and other evidence presented at the hearing, I find that the Bond Amendment does not act as a bar to granting the Individual a security clearance.

The Bond Amendment provides that federal agencies “may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict.” 50 U.S.C. § 3343(b); *see also* DOE Order 472.2A, Personnel Security, Appendix C: Adjudicative Considerations Related to Statutory Requirements and Departmental Requirements (June 10, 2022). DOE defines “an unlawful user of a controlled substance” and an “addict” as follows:

- a. An unlawful user of a controlled substance is any person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance or who is a current user of the controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that

the unlawful use occurred recently enough to indicate the individual is actively engaged in such conduct.

b. An addict of a controlled substance is as defined in 21 U.S.C § 802(1), which is any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare; or is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his or her addiction.

DOE Order 472.2A, Appendix C-1 (citing the Bond Amendment).

The Individual is not an “unlawful user of a controlled substance” or an “addict”, as defined by DOE. There is no allegation in the record that the Individual ever lost the power of self-control while using cocaine or that he is currently an active user of cocaine or other controlled substances. Further, there is no indication, nor does the LSO allege, that he habitually uses cocaine or any other narcotic drug. The Individual self-reported on his QNSP that he used cocaine on one occasion in 2022 and has stated that he has no plans to use cocaine in the future. Therefore, since I find that the evidence before me establishes that the Individual is not an unlawful user of a controlled substance, or an addict, the Bond Amendment is not applicable in this case.

B. Guideline G

Conditions that could mitigate Guideline G security concerns include:

- (a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment;
- (b) The individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- (c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; or
- (d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

The Individual has mitigated the Guideline G concerns here under mitigating factors (b) and (d). Both factors require that the Individual “has demonstrated a clear and established pattern of

modified consumption or abstinence in accordance with treatment recommendations.” As an initial matter, I find that the Individual has complied with treatment recommendations. While the Individual did not complete every treatment recommendation in the Psychologist’s report, the recommendations were intended to list criteria that could demonstrate rehabilitation from the Individual’s Alcohol Use Disorder. The Psychologist testified that the Individual had demonstrated rehabilitation, the goal of the recommendations. I therefore find that the Psychologist’s recommendations have been functionally, if not specifically, met.

Furthermore, I find that the Individual has demonstrated a clear and established pattern of abstinence. The Individual testified that he had abstained from alcohol for about 11 months by the date of the hearing, submitted PEth test results confirming about six months of abstinence, and submitted attendance sheets from AA. Ex. A. Additionally, the Psychologist testified that he believes the Individual has made real changes in his life. I find that the Individual has demonstrated a clear and established pattern of abstinence in accordance with treatment recommendations.

Regarding factor (b), in his hearing testimony the Individual acknowledged that his previous use of alcohol was maladaptive and showed that he has taken appropriate steps to remedy that maladaptive use, such as attending an IOP and AA, working with an AA sponsor, and finding new ways to cope with old triggers. He has also provided laboratory proof that he has been abstinent for at least six months. Further, the Individual provided testimony to show that he had graduated from an IOP and was a regular participant in AA meetings in order to help him to maintain his sobriety.

Regarding factor (d), the Individual graduated from his IOP. Furthermore, The Psychologist’s testimony is evidence that the Individual is rehabilitated from his Alcohol Use Disorder and is now in an ongoing maintenance phase of his recovery. I therefore find that he has successfully completed a treatment program and any required aftercare.

For the foregoing reasons, I find that the Guideline G concerns are mitigated.

C. Guideline H

Conditions that could mitigate Guideline H security concerns include:

- (a) The behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;
- (b) The individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
 - (1) Disassociation from drug-using associates and contacts;

- (2) Changing or avoiding the environment where drugs were used; and
 - (3) Providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;
- (c) Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) Satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Adjudicative Guidelines at ¶ 26.

Mitigating factor (a) applies to the Guideline H concern. As discussed above, the Individual used cocaine one time in adulthood, more than one year prior to the hearing date, and has credibly testified that he does not intend to consume illegal drugs in the future. I therefore find that the Individual is unlikely to use illegal drugs in the future. For the foregoing reasons, I find that the Guideline H concerns are mitigated.

D. Guideline I

As stated above, the Guideline I concerns are dismissed because evidence presented at the hearing shows that the concerns are not supported by the record.

VI. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised concerns regarding the Individual's eligibility for access authorization under Guidelines G and H of the Adjudicative Guidelines. I further find that the Individual has succeeded in fully resolving those concerns, and that the Bond Amendment does not act as a bar to granting the Individual a security clearance. Therefore, I conclude that granting DOE access authorization to the Individual "will not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Accordingly, I find that the DOE should grant access authorization to the Individual.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Kristin L. Martin
Administrative Judge
Office of Hearings and Appeals